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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ZHENGXING ZHENG,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 05-74291

Agency No. A95-875-445

MEMORANDUM \*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted November 13, 2007\*\*

Before: TROTT, W. FLETCHER, and CALLAHAN, Circuit Judges.

Zhengxing Zheng, a native and citizen of China, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order affirming without opinion an

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Immigration Judge's denial of his application for asylum, withholding of removal, and relief under the Convention Against Torture.

We have jurisdiction pursuant to 8 U.S.C. § 1252, and we deny the petition.

We conclude that Zheng was not required to re-file his opening brief with the BIA or to file a motion to reconsider in order to exhaust his due process challenge. *See Padilla-Padilla v. Gonzales*, 463 F.3d 972, 978 (9th Cir. 2006); *Noriega-Lopez v. Ashcroft*, 335 F.3d 874, 880-81 (9th Cir. 2003). However, Zheng has not demonstrated error because the record indicates that the BIA considered and denied his appeal on the merits. *Cf. Singh v. Ashcroft*, 361 F.3d 1152, 1156-57 (9th Cir. 2004). We have also considered the petition for review on the merits and hold that the BIA's decision is supported by substantial evidence. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156-57 (9th Cir. 2003). Accordingly, we deny the petition for review.

**PETITION FOR REVIEW DENIED.**